

FILED

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

2004 SEP 30 P 12:04

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

In the Matter of

Melissa H. Matson,

Licensee.

) No. D 04 - 191

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ORDER REVOKING LICENSE

To: Melissa H. Matson
7204 N Excell Dr.
Spokane, WA 99208

IT IS ORDERED AND YOU ARE HEREBY NOTIFIED that your license is REVOKED, effective September 21, 2004, pursuant to RCW 48.17.530 and RCW 48.17.540 (2).

THIS ORDER IS BASED ON THE FOLLOWING:

The Office of the Insurance Commissioner (OIC) received a written complaint from Maury Nollette alleging wrong doing on the part of Melissa H. Matson (licensee). OIC conducted an investigation and violations of the Revised Code of Washington (RCW) and Washington Administrative Code (WAC) were found, as set forth below:

1. Violation of RCW 48.30.210, Misrepresentation in Application for Insurance; RCW 48.30.090, Misrepresentation of Policies; and RCW 48.18.100, Forms of Policies, Filing, Certification and Approval.

- a. Licensee completed an Allianz Life Insurance Company of North America (Allianz) annuity application for Donna Ostlin on or about October 28, 2003. The application shows that it was taken at Post Falls, Idaho. Ms. Ostlin reported to Mr. Nollette that she did not go to Idaho to purchase the annuity and that the purchase took place in her home at Spokane, Washington. The annuity sold by the licensee to Ms. Ostlin was not approved for sale in Washington.
- b. Licensee completed an Allianz annuity application for Kermit Williams on or about October 13, 2003. The application shows that it was taken at Post Falls, Idaho. OIC investigator Talarico sent Mr. Williams a letter asking him to verify that he purchased the Allianz annuity at Post Falls, Idaho. Mr. Williams wrote to investigator Talarico and assured him that he purchased the annuity from the licensee while sitting at his home in Spokane, Washington. The annuity sold by the licensee to Mr. Williams was not approved for sale in Washington.

DECLARATION OF MAILING

I certify under penalty of perjury Under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to

DATED this 1st day of Sept. 2004
At Tumwater, Washington

Signed

Victoria Meyer

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- c. Licensee completed an Allianz annuity application for Shirley K. Wiater on or about July 20, 2003. The application shows that it was taken at Post Falls, Idaho. OIC investigator Talarico sent Ms. Wiater a letter asking her to verify that she purchased the Allianz annuity at Post Falls, Idaho. Ms. Wiater wrote to investigator Talarico and assured him that she purchased the annuity from the licensee while sitting at her home in Spokane, Washington. The annuity sold by the licensee to Ms. Wiater was not approved for sale in Washington.
- d. Licensee completed Allianz annuity applications for Dorothy and Gerald Kleppinger on or about November 25, 2003. The application shows that it was taken at Post Falls, Idaho. OIC investigator Talarico sent Mr. and Mrs. Kleppinger a letter asking them to verify that they purchased the Allianz annuities at Post Falls, Idaho. Mr. and Mrs. Kleppinger wrote to investigator Talarico and assured him that they purchased the annuities from the licensee while sitting at their home in Spokane, Washington. The annuities sold by the licensee to Mr. and Mrs. Kleppinger were not approved for sale in Washington.
- e. Licensee completed an Allianz annuity application for William D. Faith on or about May 5, 2003. The application shows that it was taken at Post Falls, Idaho. OIC investigator Talarico sent Mr. Faith a letter asking him to verify that he purchased the Allianz annuity at Post Falls, Idaho. Mr. Faith wrote to investigator Talarico and assured him that he purchased the annuity from the licensee while sitting at his home in Millwood, Washington. The annuity sold by the licensee to Mr. Faith was not approved for sale in Washington.

2. Violations of RCW 284-23-400 et seq. Replacement Regulation; RCW 48.30.180 Twisting; and RCW 48.30.090, Misrepresentation of Policies.

- a. Licensee submitted a life insurance application, dated November 14, 2003, for Donna Ostlin to Clarica Life Insurance Company. The replacement form completed by the licensee, contained a number of errors.

Question number 1 on the replacement form asked "Can there be reduced benefits or increased premiums in later years?" The licensee answered the question "No" when in fact there can be increased premiums in the later years. The policy applied for was a flexible premium, adjustable life insurance policy. The premiums can be increased in the future and/or the benefits reduced, depending on the performance of the insurance policy's interest fund.

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Question number 2 on the replacement form asked "Are there penalties, set up or surrender charges for the new policy?" The licensee answered the question "No" when in fact there are surrender penalties for a period of 14 years.

Question number 8 on the replacement form asked "Are there other short or long-term effects from the replacement that might be materially adverse?" The licensee answered the question "No" when in fact the premiums can be increased or the death benefit reduced depending on how the market performance affects the performance of the policy funds.

- b. Licensee completed an Allianz annuity application for Gerald and Dorothy Kleppinger, on or about November 25, 2003. The application shows that it was signed at Post Falls, Idaho. They purchased the annuities from the licensee while sitting at their home in Spokane, Washington. The licensee replaced existing annuity policies issued by Anchor National Life and Sun Life of Canada. However, the licensee did not complete a Washington State replacement form on either policy.
- c. Licensee completed an Allianz annuity application for Shirley Wiater, on or about July 20, 2003. The application shows that it was signed at Post Falls, Idaho. Ms. Wiater purchased the annuity from the licensee while sitting at her home in Spokane, Washington. The licensee replaced existing annuity policies issued by AIG and Met Life; however, the licensee did not complete a Washington State replacement form on either policy.
- d. Licensee completed an Allianz annuity application for William D. Faith, on or about May 5, 2003. Mr. Faith was shown the sales presentation for the annuity from the licensee while sitting at his home in Millwood, Washington. After Mr. Faith agreed to purchase the annuity, the licensee invited him to dinner in Post Falls, Idaho, where the paper work was signed. The licensee then delivered the annuity to Mr. Faith at his home in Millwood, Washington. Mr. Faith later learned he had incurred tax penalties on the \$30,000 gain from his Vanguard Mutual Funds. The licensee had not informed him of the tax penalty when it was agreed that he would cash the fund in to buy the Allianz annuity.

By reason of your conduct, you have shown yourself to be and are so deemed by the commissioner, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the State of Washington. Accordingly, your license is revoked pursuant to RCW 48.17.530(1) (b), (e), (f), & (h).

IT IS FURTHER ORDERED that you return your insurance agent's license certificate to the Commissioner on or before the effective date of the revocation of your license, as required by RCW 48.17.530(4).

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NOTICE CONCERNING YOUR RIGHT TO A HEARING. Please note that a detailed summary of your right to contest this Order is attached. Briefly, if you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute and others: You must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you, or you will waive your right to a hearing. Your demand for a hearing must specify briefly the reasons why you think this Order should be changed. If your demand for a hearing is received by the Commissioner before the effective date of the revocation, then the revocation will be stayed (postponed) pending the hearing, pursuant to RCW 48.04.020. Upon receipt of your demand for hearing, you will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.

Please send any demand for hearing to Insurance Commissioner, attention Scott Jarvis, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, WA 98504-0257.

ENTERED AT TUMWATER, WASHINGTON, this 1st day of September, 2004.

MIKE KREIDLER
Insurance Commissioner

By


SCOTT JARVIS
Deputy Commissioner

Investigator: Tom Talarico

NOTICE OF YOUR RIGHT TO A HEARING

You have the right to demand a hearing to contest this Order. During this hearing, you can present your argument that the Order should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this Order. You may be represented by an attorney if you wish, although in some hearings before this agency parties do choose to represent themselves without an attorney.

Your Demand for Hearing should be sent to Scott Jarvis, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, WA 98504-0257, and must briefly state how you are harmed by this Order and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, Office of the Insurance Commissioner, at 360/725-7002.

Your Demand for Hearing must be made within 90 days after the date of this Order, which is the date of mailing, or your Demand will be invalid and this Order will stand. If your Demand for Hearing is received before the effective date of this Order, the penalties contained in the Order will be stayed (postponed) until after your hearing.

It is important to know that if you demand a hearing, you will have two options for how it will be handled:

Option 1: Unless you specifically request Option 2, your hearing will be presided over by an administrative law judge from the Office of the Insurance Commissioner. Under this option, upon receipt of your Demand for Hearing, the Insurance Commissioner may refer the case to an administrative law judge. The administrative law judge is an individual who has not had any involvement with this case. The administrative law judge will hear and make the final decision in the case without any communication, input or review by the Insurance Commissioner or staff or any other individual who has knowledge of the case. This administrative law judge's final decision may uphold or reverse the Commissioner's action or may instead impose any penalties which are less than those contained in the Order.

Option 2: If you elect, your hearing will be presided over by an administrative law judge from the Office of Administrative Hearings. That administrative law judge will issue an initial or recommended decision which will then be sent to the Insurance Commissioner. The Insurance Commissioner, or his designee, will review the initial decision and make the final decision. The Insurance Commissioner's final decision in the case may uphold, reverse or modify the initial decision, thereby changing the penalty which is recommended in the initial decision. In writing the final decision, the Insurance Commissioner is not bound by the findings of facts or conclusions of law which were made in the initial decision.